

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WALTER WHITE,

Plaintiff,

CIVIL ACTION NO. 06-12911--DT

vs.

DISTRICT JUDGE GERALD E. ROSEN

COMMISSIONER OF
SOCIAL SECURITY

MAGISTRATE JUDGE MONA K. MAJZOUB

Defendant.

_____ /

ORDER DENYING PLAINTIFF'S MOTION
FOR APPOINTMENT OF COUNSEL

This is an appeal of the Commissioner's final decision to deny Social Security disability benefits to the Plaintiff. Plaintiff's Application For Appointment of Counsel is before the Court (Docket # 3).

* * *

The Constitution does not require the automatic appointment of counsel for indigents in social security cases. Appointment of counsel in a civil proceeding is not a constitutional right and is justified only in exceptional circumstances. *Lanier v. Bryant*, 332 F.2d 999, 1006 (6th Cir. 2003); *Lavado v. Keohane*, 992 F.2d 601, 605-6 (6th Cir 1993). To determine whether exceptional circumstances justifying the appointment of counsel exist, courts

consider the type of case and the ability of the plaintiff to represent himself. *Lanier*, 332 F.2d at 1006.

The Court declines to exercise its discretion to appoint counsel in this case because Plaintiff's case is not exceptionally complex and there is nothing before this Court indicating that Plaintiff cannot prosecute his own case adequately. Furthermore, in a separate Report and Recommendation (Docket # 10), this Court recommends that Plaintiff's case be dismissed as untimely, which would render Plaintiff's request for counsel moot.

The Court notes Plaintiff is not without options for retaining counsel should Plaintiff's case continue. Plaintiffs, even indigent plaintiffs, regularly acquire counsel in Social Security cases without risking their own assets by entering into contingent fee agreements with local attorneys. Moreover, Plaintiff may be able to acquire legal services for free from one of a number of Legal Aid organizations in Michigan.

Plaintiff's Motion For Appointment of Counsel is **DENIED** without prejudice.

IT IS SO ORDERED.

Pursuant to Fed. R. Civ. P. 72(a), the parties have a period of ten days from the date of this Order within which to file any written appeal to the District Judge as may be permissible under 28 U.S.C. § 636(b)(1).

Dated: November 14, 2006

s/ Mona K. Majzoub
MONA K. MAJZOUB
United States Magistrate Judge

PROOF OF SERVICE

I hereby certify that a copy of this Order was served upon Walter White and Counsel of Record on this date.

Dated: November 14, 2006

s/ Lisa C. Bartlett

Courtroom Deputy